

**Massachusetts
Public Health Inspector Training
(MA PHIT)
Food Certificate Program
Day 1, Session 2
Laws and Regulations**

Laws and Regulations

- Contrast a law and a regulation
- Explain the legal authorities for retail food protection
- Describe the recommended compliance philosophy

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Laws vs Regulations

Laws are passed by elected bodies

- Allow regulations to be promulgated
- Can require inspections

Regulations are promulgated by agencies

- Add specificity to powers described in laws
- Can not "broaden" the scope of the law



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Laws – Federal Examples

- Federal Food Drug and Cosmetic Act
- Fair Packaging and Labeling Act
- Nutrition Labeling and Education Act
- Dietary Supplement Health and Education Act



Laws – MA Examples

MGL Ch 111, s 127A – State Sanitary Code

(MDPH) shall adopt, and may from time to time amend, public health regulations to be known as the state sanitary code . . . standards of fitness for human habitation, housing . . . farm labor camps . . . recreational camps for children . . . swimming pools, bathing beaches, family type camp grounds, and sanitation standards for food service establishments . . .

Laws – MA Examples

MGL Ch 111, s 127A, con't.

This section shall not be deemed to limit the right of any board of health to adopt such rules and regulations as, in its opinion, may be necessary for the particular locality under its jurisdiction.

MGL Ch 111, s 31

Boards of health may make reasonable health regulations.

Laws - MA Examples

MGL Ch 111, s 223(g) was enacted in 2010

Requires the Department to “**promulgate regulations** requiring local health officials to conduct food safety inspections at public schools.....”



Laws vs. Regulations

MGL authorized DPH to adopt food regulations

•Amending regulations is a quicker process than changing laws

•Food Code 105 CMR 590.000 is part of the State Sanitary Code Chapter X (Minimum Sanitation Standards for Food Establishments) and was amended in 2010 (food allergens) and 2011 (school kitchens)

•590 delegates administration and enforcement to the local BOH [590.010 (B)]

FDA Model Code

Five Main Food Code Interventions

1. Demonstration of Knowledge
2. Implementation of Employee Health Policies
3. Hands as a Vehicle of Contamination
4. Time/Temperature Relationships
5. Consumer Advisory

Putting it Together

- FDA created a model food code (FC) which is guidance
- MGL authorized DPH to adopt administrative procedures (400) and minimum sanitation standards for food establishments (590). DPH can amend regulations.
- In 2000, DPH amended 590 and adopted, by reference, the 1999 FC (with modifications that allow DPH to change, add or delete sections of the 1999 FC)
- 590 places administrative enforcing authority to local BOH
- BOH Inspector must use these documents:



Powers and Responsibilities

- FC 8-401.10 (A)– inspection interval
- FC 8-402.11– reasonable access
- 105 CMR 400.000– administration (inspection authority)
- 105 CMR 590.013(E)– inspection report
- 105 CMR 590.013(H)– public record
- 105 CMR 590.014(B)– permit suspension

How is 590.000 formatted?

Table of Contents

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| •590.001 | Adoption of the 1999 Food Code |
| •590.002 | FC-1 Purpose and Definitions |
| •590.003 | FC-2 Management/Personnel |
| •590.004 | FC-3 Food and Food Protection |
| •590.005 | FC-4 Equip, Utensils, Linen |
| •590.006 | FC-5 Water, Plumbing, Waste |
| •590.007 | FC-6 Physical Facilities |
| •590.008 | FC-7 Poisonous/Toxic Materials |
| •590.009 | Special Requirements |
| •590.010-21 | FC-8 Admin./Enforcement; Vending; FEAC |

Special Provisions in 590

• Establishments and Types of Operations:

- Caterers - .009 (A)
- Mobile Food Operators - .009 (B)
- Temporary Food Establishments - .009 (C)
- Residential Kitchens - .009 (D)
- Vending Machines - .018
- School Kitchens



Special Provisions in 590

• Management and Personnel (590.003)

- Person in charge (PIC) or designee
- How many?
- Age requirement?
- How do they demonstrate knowledge?
- Are there exemptions?



Special Provisions in 590

• Inspector Training (590.010 (G)). Any person conducting BOH food inspections must be at least one of these:

1. Registered Sanitarian or
2. Certified Health Officer or
3. Certified Food Safety Manager or
4. Certified Food Safety Professional



PLUS

Must complete Food Safety Training
Recognized by the Department (MA PHIT Level One)

Special Provisions in 590

- Other:
 - Anti-choking - .009 (E)
 - Tobacco Product Sales - .009 (F)
 - Allergens - .009 (G)



How do I use the FC and 590?

- Rely on the FC as the main document for looking up provisions
- Feel free to mark up 590 with insert labels, notes, or reminders
- Use the Food Code Comparison Guide



2017 CMR 218.000 Food Code Comparison Guide

2017 CMR 218.000: Chapter of Food Code of the Food Code

2017 CMR 218.000: Chapter of Food Code of the Food Code

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Compliance Philosophy

Progressive Enforcement

- Education before punishment
- Well written Inspection report
- Reinspection (possibly ticket)
- Correction Order (certified mail)
- Hearings
- License restriction or suspension
- Court complaint

Questions?

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